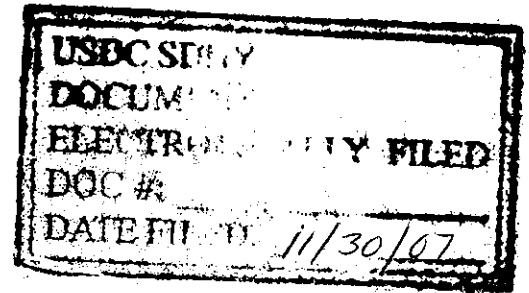


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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NATIONAL UNION FIRE INSURANCE COMPANY :
OF PITTSBURG, PA, as subrogee and assignee of The :
Rockefeller Foundation, :

Plaintiff, :

-against- :

ANTHONY McEWAN, FRANK MELLI, PAUL :
SHUSTERMAN, LISA BAKER & LACHO TERRAZAS, :

Defendants. :
----- x

07 Civ. 7515 (BSJ) (AJP)

RULE 16 INITIAL PRETRIAL
CONFERENCE ORDER

ANDREW J. PECK, United States Magistrate Judge:

Based on the Initial Pretrial Conference pursuant to Rule 16, Fed. R. Civ. P., held on November 30, 2007 before Magistrate Judge Andrew J. Peck, IT IS HEREBY ORDERED THAT:

1. Plaintiff is granted permission to amend the complaint to address National Union's citizenship and more specific allegations as to the role of each defendant in the fraud.

2. All fact and expert discovery must be completed by March 28, 2008. Expert reports must be served by January 31, 2008 plaintiff, February 29, 2008 defendants.

Mandatory initial disclosure pursuant to Rule 26(a)(1), Fed. R. Civ. P., is due January 4, 2008. The parties shall discuss any issues with respect to electronic discovery before the next court conference.

3. Each party will notify this Court by April 1, 2008 as to whether it intends to move for summary judgment. Summary judgment motions must be filed by April 21, 2008, and must comply with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the chamber rules of the District Judge to whom this case is assigned.

4. The parties are to submit a joint proposed pretrial order, in conformance with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the chamber rules of the District Judge to whom this case is assigned, by April 21, 2008 if neither party is moving for summary judgment, or 30 days after decision on the summary judgment motion. The case will be considered trial ready on 24-hours notice after the pretrial order has been submitted.

5. A settlement conference will be held before the undersigned on January 22, 2008 at 9:30 a.m. in Courtroom 20D (500 Pearl Street). Counsel attending the conference must have full settlement authority and their client(s) must be present at the conference, as must a representative of the client's insurance company where the decision to settle and/or amount of settlement must be approved by the insurance company.

On or before January 15, 2008, counsel shall provide a confidential settlement memorandum to my chambers. The memorandum shall not be filed with the Clerk of the

Court nor provided to opposing counsel. The memorandum should explain the factual and legal background of the case as it impacts on settlement negotiations; the status of prior settlement discussions between the parties, if any; and the party's settlement proposal (range). The latter should be the realistic settlement range of that party, not just the party's "opening bid." The settlement range in the settlement memorandum will be kept confidential by me and not disclosed to opposing counsel. I strongly suggest that the settlement memorandum not exceed 15 pages (counsel may file a longer memorandum without leave of court if counsel truly believes it is necessary; however, any memorandum in excess of 15 pages must be filed two weeks before the conference).

6. The parties are directed to follow the "Individual Practices of Magistrate Judge Andrew J. Peck," a copy of which was previously provided.

SO ORDERED.

DATED: New York, New York
November 30, 2007



Andrew J. Peck
United States Magistrate Judge

Copies by fax & ECF to: Brian W. Keatts, Esq.
Richard S. Mills, Esq.
Todd D. Greenberg, Esq.
Marc A. Lebowitz, Esq.
Keith M. Getz, Esq.
Lisa Baker (Regular & Certified Mail)
Lacho Terrazas (Regular & Certified Mail)
Judge Barbara S. Jones